

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The claims pending at the time of the outstanding Office Action were independent claims 4, 15, 20 and 21, and dependent claims 25-33. Prior to the issuance of the outstanding action, all of these claims had been allowed.

Applicants have amended claim 31 correct the dependency of the claim. Applicants have also amended claims 4, 15, 20 and 21 herein and previously cancelled claims from further consideration in this application. Applicants are not conceding in this application that those claims amended and cancelled are not patentable over the art cited by the Examiner, as the present claim amendments and previous cancellations are only for facilitating expeditious prosecution of the instant application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

Claim 31 is objected to because of a typographical error in the dependency. All of the pending claims stand rejected under 35 USC § 103(a) as being unpatentable over Owensby in view of Tijerino. The Office is respectfully requested to reconsider the rejections present in the outstanding Office Action in light of the foregoing amendments and the following remarks.

Section 103 Rejections

As best understood, Owensby teaches a system and method for inserting messages containing commercial information or advertisements into a wireless communication. *Owensby*, Abstract. Such advertisements are inserted “only prior to connection of the call or also at regular intervals during the call” where the subscriber has agreed to same. (Col. 19, lines 34-36). As best understood, Tijerino represents a system and method for providing enhanced feedback to a user that requests information from a data retrieval system. *Tijerino*, Abstract.

In order to facilitate expeditious prosecution of the instant application, Applicants have amended the independent claims to recite, *inter alia*, “wherein the automatic pushing is based upon at least the location of the wireless device.” (Claim 4, emphasis added). Support for this added language can be found throughout the Specification, particularly at paragraphs [0044-0048], [0058] and [0061-0062]. By way of non-limiting examples, paragraph [0044] provides that “[i]f the user approaches a restaurant carrying the wireless communication device 34, the invention may provide a listing of menu items carried by that restaurant”; paragraph [0048] provides that “[r]estaurants listed ... may include those within a predetermined area such as, for example, one mile of the current location”; and paragraph [0059] provides that “the system can provide a listing of restaurants offering the type of food within a three block walk.”

This language is intended to clarify that in stark contrast to both Owensby and Tijerino, the instantly claimed invention proactively provides -- based at least the location of the user -- information that it predicts or infers will be of interest to the user.

Specifically, Owensby fails to teach the limitation of the instantly claimed invention in at least the following way: Owensby serves up a targeted advertisement only “prior to connection of the call or also at regular intervals during the call”. (Owensby, Col. 19, lines 34-36) Tijerino also fails to teach the limitations of the instantly claimed invention in at least the following way: Tijerino is a data retrieval system, responding to a user’s request. (Tijerino, Abstract; see also Col. 1, lines 52-55) There are numerous other examples wherein it is clear that the system taught in Tijerino is a reactive system, awaiting a user request to employ its improved retrieval techniques.

In contrast, the instantly claimed invention essentially deduces, infers or predicts, using a variety of factors, what the user *may* find interesting, and then proactively provides this information to the user based upon at least the location of the user, not based upon a request from the user or only prior to a connection of call or during the call. Thus, Owensby and Tijerino are insufficient to render the instantly claimed invention obvious. Therefore, Applicants respectfully request reconsideration and withdrawal of these rejections under 35 USC 103(a).

Conclusion

It is respectfully submitted that the instantly claimed invention is clearly distinguishable from the art of record, including Owensby and Tijerino, and therefore that the instantly claimed invention is in condition for allowance. Accordingly, it is respectfully submitted that the rejection of Claims 4, 15, 20, 21 and 25-33 should be withdrawn as the instant application is in condition for allowance. Notice to the effect is hereby earnestly solicited.

If there are any further issues in this application, the courtesy of a telephone interview is requested prior to the issuance of a further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stanley D. Ference III", with a stylized flourish at the end.

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